

Application No. : 10658,339
Art Unit : 3652

Attorney Docket No. 23440.00
Confirmation No. 1866

REMARKS

By the present amendment, Applicant has amended Claims 1 and 2. Claims 1 through 3 remain pending in the present application. Claim 1 is the sole independent claim.

Applicant appreciates the courtesies extended to Applicant's representative during the personal interview held December 9, 2004. The present response summarizes the substance of the interview. At the interview Examiner M. S. Lowe and Attorney Libby Babu were present. A minor revision to the language of the "whereby" clause of independent Claim 1 and three proposed new dependent Claims 4-6, further defining features of the drawstring, were presented for discussion. Arguments were advanced that any one of the limitations of newly proposed Claims 4-6 when incorporated into Claim 1 would patentably distinguish Applicant's invention over the cited and applied prior art. The features of proposed Claim 6, wherein the drawstring is defined as extending completely around the portion wrist and forming a continuous loop external of the wrist portion, was particularly discussed. The Examiner generally concluded that this proposed feature would likely overcome the 102 rejections of record, but did not rule out possible rejections under 35 U.S.C. § 103.

In the recent Office Action the Examiner rejected Claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by Ross (U.S. Patent No. 5,734,992). Claims 1-2 under 35 U.S.C. § 102(b) as being anticipated by Hayes (U.S. Patent No. 4,677,697) and Claims 1-2 under 35 U.S.C. § 102(b) as being anticipated by Hoerl (U.S. Patent No. 6,050,726). Examiner also rejected Claim 3 under 35 U.S.C. §

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103(a) as being unpatentable over Hayes in view of Ross as well as Hoerl in view of Ross.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

Independent Claim 1 has been amended to more particularly define the subject matter in question. Amended Claim 1 sets forth a disposable pet waste glove, comprising front and back portions connected to form a sheath adapted for encasing certain aspects of a hand. The glove further includes tubular finger sleeves, a thumb sleeve and a wrist portion that extend from the sheath. Amended Claim 1 further characterizes the wrist portion as terminating in an open end with a drawstring extending completely around the portion wrist adjacent the open end and forming a continuous loop external of the wrist portion. The operational features of the claimed glove is set forth by the "whereby" clause which states that a user places the glove on the hand, picks up pet waste material with the gloved hand, turns the glove inside out by pulling the drawstring up over the hand and fingers and tightening the drawstring in order to contain the waste material within the glove for disposal.

Applicant contends that the patents to Ross, Hayes and Hoerl are deficient as anticipatory references against the present claims since each fails to disclose a disposable glove having the combination of features defined by independent Claim 1, as amended. In order to show anticipation under 35 U.S.C. 102(b), the reference must show every element of the claimed invention identically. *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1 USPQ2d 1081 (Fed. Cir. 1986), *Akzo N.V. v. United*

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States Intl. Trade Commission, 808 F.2d 1471, 1 USPQ2d 1241 (Fed. Cir. 1986). Not only must every element claimed be shown in the prior art reference, but every claimed limitation of each of the elements must be shown; otherwise, the only possible rejection is for obviousness under 35 U.S.C. 103. *Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 750 F.2d 1569, 224 USPQ 409 (Fed. Cir. 1984), *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985). For at these reasons, Applicant respectfully requests that the rejections of record under Section 102 be withdrawn.

Moreover, it is Applicant's contention that none of the cited references of record, taken alone or in combination, is sufficient to render Applicant's presently claimed invention obvious within the meaning of 35 U.S.C. 103. In this regard, Applicant notes that Ross shows a protective hand and arm covering having a glove portion and an arm portion, which are joined together at a site by a cinching material. The cinching material may be a number of items that allows "the article to fit snugly around the wrist" (col. 4, line 34). The site at which the glove and the arm portions are connected is intended "to form a fluid tight bond in the vicinity of the wrist" (col. 4, lines 47-48), but, at the same time, expand at least 1.5 to 5 times its native circumference. Ross fails to suggest a drawstring as defined in amended Claim 1 since the cinching material of Ross is intended to grip the user tightly and not be external of the wrist portion.

Hayes shows a pair of clean up gloves having tabs extending from each side of the wrist portion, wherein each tab has a slot. The tabs are used to generally close the opening of the glove when it is used as a bag. The tabs are first drawn together, the slots are aligned, and then a tie is slipped through each slot to generally close off the opening of the bag. Hayes' tie does not form a continuous loop external of the

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wrist portion and may be readily separated from glove. The reference tie only secures the ends of the wrist portion together and therefore does not provide a secure closure around the entire circumference of the wrist portion to completely seal off the opening of the glove. Thus, Hayes' tie would be unsuitable for Applicant's purposes since it would be difficult to manipulate with only one hand and there is a high possibility of material leaking out of the bag when it is secured with the tie.

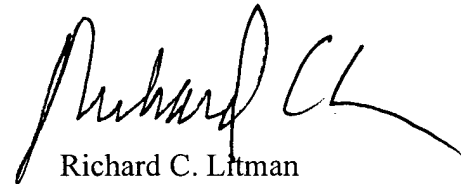
Furthermore, Hoerl shows a storage bag comprising a container portion and a glove. The drawstring is disposed on the container portion that is intended to form a cuff which is considerably wider than Applicant's wrist portion. Hoerl's cuff would fall over the hand onto the floor when the glove is used to grasp something on a floor. The reference drawstring has two free ends (not a closed external loop) that require effort and concentration when being manipulated. In contrast, Applicant's closed loop extending from the wrist portion can be easily grasped and manipulated as compared to manipulating Hayes' tie or Hoerl's drawstring having free ends. Applicant respectfully submits that for at least these reasons, Claim 1, as amended, and dependent Claims 2-3 are allowable over the prior art applied of record.

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For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard C. Litman", with a stylized flourish at the end.

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RCL:dht/lxb